

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ORDER

On December 15, 2011, a hearing was held on the issue of defendant Anthony Falco, Jr.'s competency. Counsel for defendant filed a Motion for Determination of Mental Competency (Doc. #12), pursuant to 18 U.S.C. § 4241, asking that defendant undergo a psychiatric or psychological examination and that a report be filed with the Court concerning the defendant's mental ability to understand the proceedings presently pending against him and to properly assist in his defense. Defense counsel was subsequently allowed to withdraw that motion (Doc. ##17 and 18). Government counsel then orally asked that the defendant be required to undergo a mental evaluation. On October 6, 2011, the Court committed the defendant to the custody of the Attorney General to undergo a psychiatric examination concerning the defendant's competency to stand trial.

On December 15, 2011, United States Magistrate Judge Sarah W. Hays conducted a hearing on the issue of the defendant's competency to stand trial. The only evidence presented at the hearing was the Psychological Evaluation prepared by Randall Rattan, Ph.D., ABPP and Marti Carlson, Psy.D. of the Federal Correctional Institution in Fort Worth, Texas.

On December 16, 2011, United States Magistrate Judge Sarah W. Hays issued her Report and Recommendation (Doc. #30).

Upon careful and independent review of the record, as well as the applicable law, and there being no objections filed to the Report and Recommendation, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of United States Magistrate Judge Sarah W. Hays.

Accordingly, it is

ORDERED that defendant Anthony Falco, Jr., is found to be incompetent in that he is presently suffering from a mental disease or defect rendering him unable to understand the nature and consequences of the proceedings against him or to properly assist in his defense. It is further

ORDERED that the defendant Anthony Falco, Jr., is committed to the custody of the Attorney General pursuant to 18 U.S.C. § 4241(d)(1). The Attorney General shall hospitalize the defendant for treatment in a suitable facility for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future defendant will attain the capacity to permit the trial to proceed.

IT IS SO ORDERED.

s/ Gary A. Fenner

Gary A. Fenner, Judge
United States District Court

DATED: January 3, 2012